

CITY OF SUNNYVALE

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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## FUND REALLOCATION GUIDELINES

- DESIGN AND USE TWO REVOLVING LOAN FUNDS with INCOME GENERATED FROM THE HOUSING IMPROVEMENT PROGRAMS AND AFFORDABLE HOUSING PROJECTS
- AMENDMENT to the City of Sunnyvale Consolidated Plan 2000—2005 Adopted May 15, 2000 AND ACTION PLAN 2001-2002

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUND REALLOCATION GUIDELINES

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## REALLOCATION GUIDELINES

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### I. Reallocation Guidelines

#### A. DEFINITION

Unexpended funds can become available for reallocation for a variety of reasons, including, but not limited to those shown as follows:

- 1) The project becomes inactive;
- 2) The project becomes terminated or disencumbered;
- 3) Residual funds remaining from a completed project; and
- 4) Other unexpended or contingency fund balances at the conclusion of the program year.

(Note: All funds being reprogrammed must meet applicable Citizen's Participation Requirements, environmental review requirements, and follow Notice of Intent and Request for Release of Funds procedures).

#### B. PROCEDURE

Guidelines are required to comply with the U.S. Department of Housing and Urban Development (HUD) regulations governing the reallocation of funds. They are intended to facilitate the timely reallocation of funds, maintain project time schedules and, in general, to encourage the efficient, and economic expenditure of CDBG funds. It is the intent of the City of Sunnyvale City Council, to utilize CDBG funds to accomplish the highest level of program performance during each ensuing program year.

#### C. PROCEDURAL RESPONSIBILITY

##### 1. AMENDMENTS

HUD Regulations 91.505 state;

- a) Amendments to the Consolidated Plan require that the City shall amend it's approved plan whenever it make one of the following decisions:
  - 1) To make a change in its allocation priorities or a change in the method of distribution of funds;
  - 2) To carry out an activity, using funds from any program covered by the Consolidated Plan, (including program income) not previously described in the Action Plan; or

- 3) To significantly change the purpose, scope, location; or beneficiaries of an activity so that the affected citizens have not had an opportunity to submit comments;
- b) HUD regulations require that participating recipients involve the Citizen's Participation Process, as defined by HUD, when making both the original project selection, or when making subsequent reallocation changes that significantly result in a substantial amendment to the Consolidated Plan, or Action Plan. For purposes of this document the City of Sunnyvale has defined substantial as:
  1. An increase or decrease in the original allocation mix greater than 15% of the total grant; or
  2. A determination by the Housing Officer that the change is not consistent with the priority needs contained in the Consolidated Plan;
  3. Substantial amendments to the annual Action Plan must be noticed in a local newspaper when an activity is added or deleted. All required actions are contained in the Citizen Participation Plan.

## **II. Funds Transfer Process**

- A. During the program year, the Housing Officer, the Director of Community Development, or the City Manager may see a need to transfer funds from one project to another. The procedure for such transfers is as follows:
  - 1) For Fund transfers not deemed Substantial under I.C.1.; A staff report and/or Budget Modification will be prepared and submitted to the City Manager. Reallocations of funds require approval of City Council. The Housing Officer will notify HUD of all reallocations.
  - 2) Substantial amendments to the Action Plan resulting in transfers and/or project changes that meet the criteria of I.C.1.; Housing Division staff will review and evaluate all transfers, a staff report will be prepared at least thirty days prior to the public hearing at City Council. The thirty-day period will be to receive comments from the public. A summary of the amendment will be published in the SUN, local newspaper, and copies of the amendment will be made available for public review on the City's web site and also at the library and the City's One-Stop Permit Center at 456 West Olive Avenue, Sunnyvale, CA 94086 during normal working hours (weekdays 8:00 a.m.-12:00 p.m. and 1:00 p.m.-5:00 p.m.) The summary in the notice will include the contents and purpose of the amendment and the places where it is available for review. Amendments to the Consolidated Plan will also be available on computer disk upon request.
  - 3) During the review period of the proposed amendment to the Consolidated Plan two public hearings will be held – one with the Housing and Human Services Commission and one at City Council.
  - 4) Any comments or views received from the public either orally or in writing will be considered in preparing the final amendment. A summary of views and comments accepted, and those not accepted and the reasons for not accepting them, will be

attached to the final amendment submitted to HUD. A substantial amendment will be submitted to HUD for review, prior to adoption. The City Manager, upon approval by the City Council, after a Public Hearing, will incorporate and authorize the transfer. The Housing Officer will notify HUD of all adopted amendments.

### **III. REHABILITATION FUNDS**

Unexpended rehabilitation project balances (including HOME and all Sunnyvale CDBG housing program activities) and rehabilitation administrative balances at the end of a program year may be reallocated as follows:

- A) Reallocated to the next program year's housing rehabilitation and/or housing acquisition project funds;
- B) Reallocated to the next program year's rehabilitation administration fund; or
- C) A percentage of funds may from time to time be reallocated to similar or high priority housing projects, as long as a balance of funds is maintained in the Housing Programs (rehabilitation related activities) revolving loan fund sufficient to support all currently stated rehabilitation goals.
  - a. The city will maintain a minimum balance of funds in its Housing Programs revolving loan fund sufficient to support all stated jurisdictional goals, on an annual basis.
- D) In order to provide an equitable opportunity for the distribution of funds to high priority housing projects the reallocation process will incorporate the following components:
  - 1) Housing Division will publish a Notice of Funding Availability (NOFA) and mail the NOFA to all interested parties. The NOFA will be published at least once annually, or more often as funds may become available.
  - 2) Non-profit agencies may submit proposals for eligible housing activities that address Sunnyvale's priority housing needs described in the City of Sunnyvale Consolidated Plan.
  - 3) Housing Division staff will determine proposal eligibility based on guidelines provided in Council Policy 5.1.3 Human Services Policy. Proposals not qualifying will not be recommended to Council for funding and will not receive further evaluation.
  - 4) Staff will prepare a technical evaluation of the applications before submitting them to the advisory commission. The advisory commission will conduct formal evaluations of the applications, including the opportunity for each group to present its project to the advisory commission for evaluation. Staff and commission will make recommendations to the City Manager and Council.
  - 5) The City Manager will review the proposals and recommend to Council which projects should be funded, taking into consideration other budget priorities.

#### **IV. HOUSING ACQUISITION FUNDS**

Unexpended Housing Acquisition project balances (including HOME and CDBG) and acquisition administration balances at the end of the program year may be reallocated as follows:

- A) Reallocated to the next year's housing acquisition and/or housing rehabilitation project funds;
- B) Reallocated to the next program year's acquisition administration fund; or
- C) Reallocated to a similar or high priority housing projects, as long as a balance of funds is available in the Housing Acquisition revolving loan fund sufficient to support all currently stated housing acquisition goals.
  - 1. The City will maintain a minimum balance of funds in its Housing Acquisition revolving loan fund sufficient to support all state jurisdictional goals, on an annual basis.
- D) In order to provide a readily available resource of funds for housing acquisition projects and to provide an equitable opportunity for the distribution of funds to housing projects the award of reallocation and revolving fund process will incorporate the following components:
  - 1. Housing Division will publish a Notice of Funding Availability (NOFA) and mail the NOFA to all interested parties. The NOFA will be published quarterly (when funds available for acquisition projects exceed 15% or more of the annual grant). All proposed projects submitted through the formal open door process will follow the proposal evaluation process outlined in section II. b.– e.

#### **V. COMPETITIVE FUNDS**

##### **A. Competitive Funds – Outside Group Funding General Procedure**

- 1) The City has a two-year Outside Group Funding review process with annual public hearings. In the two-year cycle, programs, projects and services which are allocated funding by a competitive process in the first year will be evaluated and will need to meet funding contingencies for the allocation to be made in the second year. Funded applicants will be asked to submit an abbreviated application in the second year, updating the program/project status and demonstrating that funding contingencies have been met.
- 2) CDBG funds allocated to a competitive fund for award to public service agency subrecipients, will be allocated based on HUD's maximum cap rate of fifteen percent of the gross grant amount plus fifteen percent of the program income. These funds are awarded to subrecipients through a process of review and recommendation including:

- A) A Notice of Funding Availability (NOFA) and A Request For Proposal (RFP);
- B) Citizen Participation through public notice
- C) Housing Division staff review and funding recommendations;
- D) Housing and Human Services Commission review and funding recommendations;
- E) Award of funds by the City of Sunnyvale City Council

## **B. Outside Group Funding - Reallocation Procedures**

1. All competitive funding awards are normally contracted for a twelve-month period beginning in the current fiscal calendar year on July 1<sup>st</sup> and ending on June 30<sup>th</sup>. Length and dates of contracts may be altered in certain circumstances. Project funds are required expenditures during the contract period. Unexpended and unobligated funds remaining at the end of the contract period are subject to reallocation as follows:
  - a. Unexpended funds from completed activities will be automatically reallocated to the funds available for activities.
  - b. Unexpended funds from incomplete projects will be subject to the OGF termination procedure. (See III.C.)
  - c. Unexpended funds from completed projects will automatically be subject to I.C.I. (Procedural Responsibility), and I.D.1. (Funds transfer Process), previously described. Unexpended funds from incomplete projects will be subject to the same procedure.
  - d. Unexpended funds from disencumbered projects will be reallocated as follows:
    - 1) As part of each funding cycle process, citizen review and public hearing process, a rated list of unfunded projects will be prepared, during the current cycle.
    - 2) Housing Division staff will maintain a separate list for each type of activity funded each cycle, i.e., public service, and housing acquisition or development. As funds become available, staff will contact the agency with the highest rated project in each funding category, to determine if the project, as proposed, is feasible, given the amount of funds and time remaining. If there are no feasible projects and if there are no high priority projects in another funding category staff will solicit proposals from agencies. If there are high priority projects in another funding category, staff will present the project and review with HHSC or follow the substantial amendment process, as necessary.
    - 3) The Housing Officer will prepare a staff report and/or Budget Modification which will be submitted to the City Manager. Reallocation of funds requires approval of City Council.

2. Housing Division will maintain a financial report of all funds reallocated to the Outside Group Fund. Subsequent reallocation of these funds will be determined as follows:
  - a. The accumulation of a minimum of 25% of the grant in the Outside Group Fund reallocation report will automatically initiate a second Request for Project Proposal process. All review of project proposals will involve the normal citizen participation process, review by Housing Division staff, Housing and Human Services Commission and City Council.
  - b. The Housing Officer may activate the Request for Project Proposal process at any time the Outside Group Fund reallocation fund totals more than \$60,000.
  - c. Funds reallocated to the Outside Group Fund may be allocated to other projects using the current list of unfunded rated projects described in III.B.d.

**C. Outside Group Fund Project Termination Procedures**

1. This section outlines reallocation guidelines to assist Housing Division staff in making timely decisions about projects which are facing major delays in implementation and expenditure of funds. Major changes to projects that are initiated after the City Council approval must be resubmitted through the complete project approval process. Major changes are defined as, but not limited to:
  - a. Change of site location;
  - b. Change in the nature, scope, or proposed beneficiaries; or
  - c. Any changes of project financing or budget that will affect project feasibility.
2. A project which is experiencing difficulty in meeting its activity time schedule will be subject to the following procedure:
  - a. If a project is unable to meet the conditions contained in the agreement in a timely manner, staff will confer with the executive officers of the agency and establish a revised schedule for removal of conditions, or implementation actions. Housing Division staff will continue to closely monitor the project's progress. If the project continues to show lack of progress (six months or more of unmet milestones), or if funding conditions cannot currently be met (site control or other financial commitments) the Housing Officer will submit written notice to the agency and advise them that the funding award is withdrawn due to inadequate performance. Staff will advise the City Manager and City Council of the recommended action. Funds that are disencumbered will be returned to the Outside Group Fund competitive funds.
  - b. If a project is off schedule in excess of ninety days, Housing staff will confer with the project manager and, if possible, establish a plan to get the project back on schedule. A determination may be made at that time to revise the original activity schedule due to unforeseen problems that have arisen.
  - c. Housing staff will continue to closely monitor the project's progress. If the project continues to show lack of progress (which constitutes non-compliance with the

agreement); the Housing Officer will send written notice to the agency, the City Manager and City Council and request recommended action. If the project is ultimately cancelled, funds will be returned to the Outside Group Fund.

## **VI. PROGRAM INCOME and REVOLVING LOAN FUND**

### **A. Definition**

1. "Program income" is defined as follows:

a. *Program Income* means gross income received by the recipient, or a subrecipient, directly generated from the use of CDBG funds, except as provided in paragraph (a) (4) of this section.

1) Program Income includes , but is not limited to, the following:

- i. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- ii. Proceeds from the disposition of equipment purchased with CDBG funds;
- iii. Gross income from the use of rental of real or personal property acquired by the recipient or by a subrecipient with CDBG funds, less costs incidental to generation of the income;
- iv. Gross income from the use or rental of real property, owned by the recipient or by a subrecipient, that was constructed or improved with CDBG funds, less costs incidental to the generation of the income;
- v. Payments of principal and interest on loans made using CDBG funds, except as provided in paragraph (a) (3) of this section;
- vi. Proceeds from the sale of loans made with CDBG funds;
- vii. Proceeds from the sale of obligations secured by loans made with CDBG funds;
- viii. [Revised]
- ix. Interest earned on program income pending its disposition; and
- x. Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG portion of the public improvement.

2) Program income does not include income earned (except for interest described in §570.513) on grant advances from the U.S. Treasury. The following items of income earned on grant advances must be remitted to HUD for transmittal to the U.S. Treasury, and will not be reallocated under section 106(c) or (d) of the Act:

- i. Interest earned from the investment of the initial proceeds of a grant advance by the U.S. Treasury;
  - ii. Interest earned on loans or other forms of assistance provided with CDBG funds that are used for activities determined by HUD either to be ineligible or to fail to meet a national objective in accordance with the requirements of subpart C of this part, or that fail substantially to meet any other requirement of this part; and
  - iii. Interest earned on the investment of amounts reimbursed to the CDBG program account prior to the use of the reimbursed funds for eligible purposes.
- 3) The calculation of the amount of program income for the recipient's CDBG program as a whole (i.e., comprising activities carried out by a grantee and its subrecipients) shall exclude payments made by subrecipients of principal and/or interest on CDBG funded loans received from grantees if such payments are made using program income received by the subrecipient. (By making such payments, the subrecipient shall be deemed to have transferred program income to the grantee.) The amount of program income derived from this calculation shall be used for reporting purposes, for purposes of applying the requirement under §570.504(b)(2)(iii), and in determining limitations on planning and administration and public service activities to be paid for with CDBG funds.

2. "Revolving Fund" is defined as follows:

*Revolving fund* means a separate fund (with a set of accounts that are independent of other program accounts) established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities. Each revolving loan fund's cash balance must be held in an interest-bearing account, and any interest paid on CDBG funds held in this account shall be considered interest earned on grant advances and must be remitted to HUD for transmittal to the U.S. Treasury no less frequently than annually. (Interest paid by borrowers on eligible loans made from the revolving fund shall be program income and treated accordingly.) § 570.500

*Program income* in the form of repayments to, or interest earned on a revolving fund as defined in § 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. Substantially all other program income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.

**B. Establish Housing Programs Revolving Fund**

All program income generated by repayments of all prior and future Housing Programs loans (Housing Rehabilitation, Mobile Home Rehabilitation, and Emergency Repairs and Energy Efficiency loans), must be retained in a revolving loan fund and be used for authorized CDBG housing projects as defined in II.1. -4.

**C. Establish Housing Acquisition and Development Revolving Fund**

All program income generated by repayments of all prior and future Housing Acquisition/Development loans (to non-profit housing agencies), must be retained in a revolving loan fund and be used for authorized CDBG housing projects as defined in III.

**D. Subrecipient Program Income**

1. Sub-recipient agencies receiving funds from the Competitive Pool that subsequently generate program income from CDBG funded activities may retain said program income under the following conditions:
  - a) The agency must submit a detailed project proposal including:
    - (1) A project proposal cover page detailing the purpose and objectives of the project;
    - (2) Identify how the project will be managed;
    - (3) Identify all other sources of funding and methods of financing;
    - (4) Include a completed Project Work Plan
    - (5) Include a completed Monthly Project Work Plan;
    - (6) Include a completed Proposed Implementation Time Schedule
  - b) In addition project proposals must:
    - (1) Meet all HUD regulations as defined in 24 CFR Part 570;
    - (2) Meet National Objectives as defined in the Housing and Community Development Act of 1974, as Amended;
    - (3) Address Category I, II(of the competitive Pool funding criteria) or any other eligible CDBG activity associated with acquisition of real estate;
    - (4) Meet all environmental requirements as defined in 24 CFR Part 58;
    - (5) Meet all Citizen's Participation requirements as defined in 24 CFR Part 570.301 (a)(2), and as defined in the City of Sunnyvale Citizen Participation Plan; and
    - (6) Complete the review and approval process before the advisory commission and City Council.
2. Upon completion of the above criteria and process, the sub recipient will enter into an agreement with the City of Sunnyvale, and request a Notice of Intent and Release of Funds be submitted. Standard agreement procedures will apply, as well as standard project monitoring.

3. In the case of property acquisition:
  - a) The City and subrecipient will enter into an Agreement, which will set forth disposition of Program Income generated by the sale of property, or use of property as collateral for purpose of obtaining an additional loan.
  - b) Fire and liability insurance must be carried on all property acquisitions, with City listed as an additional insured.
4. Program income must be disbursed for eligible activities before additional cash withdrawals are requested for other CDBG projects.